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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,457	03/24/2000	Fred Christian Baij	29462	2374
23482	7590	10/02/2003	EXAMINER	
WILHELM LAW SERVICE, S.C. 100 W LAWRENCE ST THIRD FLOOR APPLETON, WI 54911			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/535,457

**Applicant(s)**

BAIJ, FRED CHRISTIAN

**Examiner**

Chi Q Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/11/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 24-30 and 65-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 24-30, and 65-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

This Office action is in response to the applicant's amendment filed on 7/1/03.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6, 7, 9-11, 15, 17, 18, 24-30, 65, 70, 71, and 73-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day (US 5,632,095) in view of Leary (US 2,187,087).

Day discloses a lumber product used in standard in the industry for framing comprises a lumber piece known as a stud, which may be a 2x2, 2x3, 2x4, 2x6, 2x8, 2x10, or 2x12 framing stud of varying lengths, a 4x8 or 4x12 laminated framing lumber piece, such as plywood, of varying thickness, and may also be a 4x4 framing lumber piece of varying lengths, marking lines spaced at  $\frac{1}{2}$ " intervals or pre-selected intervals, such as 12, 16, and 24 inches or combination thereof, additional visible marking lines are imprinted or stamped on the lumber piece (col. 1, lines 43-55). The lumber product comprises a framed structure 10, such as the wall of a house, with horizontal 12 and vertical 14 framing lumber pieces, commonly known as footer/header and studs respectively, visible marking lines 22, a 4x8 plywood laminated framing lumber piece 30, is also shown with visible marking lines 24 and 26 imprinted or stamped along all four edges on the face surface 27. It should be noted that the 16-inch and 24 inch increments are the

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industry standard for spacing framing studs, depending on the climate of the building area (cols. 2-3, figs. 2-3).

Day does not teach expressly the stud locator markings having respective leading edge lines, trailing edge lines and crossing lines between the leading and trailing edge lines.

Leary teaches flexible template for stud locator markings having leading edge lines, trailing edge lines as shown in fig. 4. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Day with Leary for the stud locator markings having leading, trailing edge lines. The motivation for doing so would have been to provide more accurate control the location of the studs. Leary does not teach specifically crossing lines between the leading and trailing edge lines, examiner takes Official Notice of the equivalent functions of the leading, trailing edge lines without the crossing lines in between because in assembly thickness of the studs will position between the leading and trailing edge lines.

With regard to claim 1, Day and Leary teach the structural elements for the stud locator markings as stated except for at least one strap securing the plurality of elongate pieces of lumber together as the bundle, examiner takes Official Notice the fact that lumber come in bundles wrapping with straps are well known in the lumber art. The motivation for doing so would have been to provide more securement for transportation.

3. Claims 2, 3, 5, 8, 66-69, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day (US 5,632,095) in view of Leary (US 2,187,087).

Day and Leary teach the structural element for the stud-locating marker as stated.

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Day and Leary do not disclose expressly a plurality of stud locator markings spaced along the lengths interval of 8", 16", the variation in spacing between the stud locator markings on a respective the framing lumber product, and between respective ones of the framing lumber products, being consistently no more than 0.13", elongated pieces of lumber, each of the plurality of stud locator markings comprising marking material deposited directly on the respective elongate piece of lumber at surface, including sets of 2x2 stud locator markings, spaced about 8, and 16 inches, leading edge-to-edge, variations in spacing between stud locator markings on a framing lumber product being consistently no more than 0.13 in. leading edge to edge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to mark the studs at the desirable interval (e.g. 8", 16") and adjust the variation in spacing between the stud locator markings on the studs being consistently no more than 0.13" are considered as obvious design choice based on desired use.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-11, 24-30 and 65-75 have been considered but are moot in view of the new ground(s) of rejection. With regarding to the applicant's arguments with respect to the recitations "stud locator marking indicating the positions where the front and back surfaces or respective stud lumber pieces are to intersect the elongate piece of lumber; a bundle securing by a strap; substantially devoid of any marking indicators away from the stud locator markings". The examiner does not agree with the applicant's arguments because the marking locators will localized positions for carpenters to install studs to match the markings therefore the

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studs will intersect both surfaces and devoid the markings; and with respect to the limitation of a bundle securing by a strap (see above rejections).

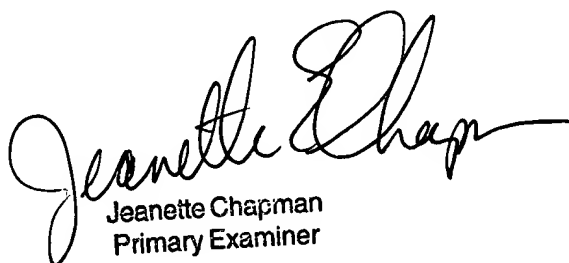
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



CQN  
9/28/03



Jeanette Chapman  
Primary Examiner